

# NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

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CHAPTER Agr 3400 GINSENG

Statutory Authority: RSA 433-B

**Adopt Agr 3400, effective 03/01/00, to read as follows:**

PART Agr 3401 DEFINITIONS

Agr 3401.01 "Buy" means to purchase, trade, or barter, or to offer to purchase, trade or barter.

Agr 3401.02 "Collect" means the harvest of wild ginseng.

Agr 3401.03 "Cultivated ginseng" means ginseng growing or grown in managed beds under artificial or natural shade and cultivated according to recognized ginseng horticulture practices. Cultivated ginseng includes woods grown ginseng.

Agr 3401.04 "Dealer" means a person who buys, collects or otherwise acquires ginseng roots in New Hampshire for resale or trade.

Agr 3401.05 "Department" means the department of agriculture, markets and food.

Agr 3401.06 "Director" means the director of the Division of Plant Industry of the New Hampshire department of agriculture, markets and food.

Agr 3401.07 "Dry weight" means the weight in pounds and ounces *of* harvested or collected ginseng root that is dried and no longer viable.

Agr 3401.08 "Ginseng" means any part of the plant known as wild American ginseng (*Panax quinquefolius* L.)

Agr 3401.09 "Ginseng certificate" means a document issued by the department or other official agency authorized by the director that verifies the origin, quantity by weight, type and condition of ginseng offered for inspection.

Agr 3401.10 "Green weight" means the weight in pounds and ounces of freshly harvested ginseng root that is not dried and is still viable.

Agr 3401.11 "Grower" means a person who grows cultivated ginseng.

Agr 3401.12 "Grower license" means a license issued by the director authorizing a grower to sell cultivated ginseng that the grower has produced.

Agr 3401.13 "Harvest" means to cut, pick, dig, root up or gather ginseng.

Agr340 1.14 "Natural habitat" means the environment where a species exists as a natural population.

Agr 3401.15 "Person" means an individual, sole proprietorship, partnership, corporation, limited liability company, association, governmental entity or other legal entity.

Agr 3401.16 "Wild ginseng" means ginseng growing or grown in an uncultivated state or harvested from its natural habitat. Wild ginseng includes ginseng that was introduced to or propagated in its natural habitat by sowing ginseng seed or transplanting ginseng plants from other areas and performing no other standard ginseng horticulture practices.

Agr 3401.17 "Woods grown ginseng" means ginseng growing or grown in managed beds under natural shade.

Agr 3402.02 Collection, Cultivation and Harvest of Cultivated Ginseng.

- (a) Prior to preparing beds for planting of ginseng, growers shall obtain a written determination from the director certifying that the area where beds are to be located is free from wild ginseng.
- (b) Growers shall keep accurate and complete records on the cultivation of ginseng including:
  - (1) Origin of seed;
  - (2) Location of beds including site maps;
  - (3) Planting dates;
  - (4) Number of pounds and ounces;
  - (5) License number; and
  - (6) Shipment number.
- (c) Planting, harvest and sales records shall be submitted annually to the department. The records shall be kept for a period of 5 years. Dealers and growers shall keep records on forms provided by the department and shall make them available upon request.

PART Agr 3403 GROWERS AND DEALERS

Agr 3403.01 Licensing of Growers.

- (a) Each grower shall obtain a license from the department.
- (b) Growers shall pay an annual fee of \$25 for each license year beginning on July 1 and ending on the following June 30.
- (c) A person shall not grow for sale or distribution cultivated ginseng unless licensed by the department.

Agr 3403.02 Registration of Dealers.

- (a) Each dealer shall register with the department.
- (b) A dealer's registration shall be nontransferable.
- (c) Dealers shall pay an annual fee of \$25 for each license year beginning on July 1 and ending on the following June 30.
- (d) Dealers shall not sell or distribute cultivated ginseng unless licensed by the department.
- (e) The requirements of this section shall not apply to a person purchasing dried ginseng solely for retail sale in the state of New Hampshire to individuals for personal consumption.

PART Agr 3404 SALE OF CULTIVATED GINSENG

Agr 3404.01 Certification. All cultivated ginseng roots intended for sale shall be certified by the department for dry weight, place of origin and year of harvest.

Agr 3404.02 Record of Sale. A grower selling cultivated ginseng shall provide to the department a record of sale including the following:

- (a) Grower's name and address;
- (b) Grower's license number and ginseng certificate number;
- (c) Dry weight; and
- (d) Year harvested.

(b) The certificate required pursuant to (a) above shall include:

- (1) Source of the cultivated ginseng;
- (2) Year of harvest;
- (3) Weight of cultivated ginseng; and
- (4) Number of cultivated ginseng roots.

(c) The dealer shall retain a copy of each certificate received.

#### PART Agr 3405 CULTIVATED GINSENG PLANTS OR PLANT PARTS SOLD FOR PROPAGATION

Agr 3405.01 Certification of Cultivated Ginseng Sold for Propagation. Live cultivated ginseng plants or plant parts, except seeds, for propagation shall not be transported or sold without the owner obtaining a license.

#### PART Agr 3406 SUBMISSION OF CULTIVATED GINSENG

Agr 3406.01 Cultivated Ginseng Submitted for Weighing.

- (a) After annual harvesting, a grower or dealer shall submit all cultivated ginseng in the grower's or dealer's possession for weighing.
- (b) The director shall record the weight of the certified ginseng.
- (c) The dealer shall document the cultivated ginseng submitted for weighing as required in Agr 3408.01. The cultivated ginseng submitted for weighing and all documentation shall be available for inspection by the director.

#### PART Agr 3407 RECORD OF SALE

Agr 3407.01 Record of Sale. A grower or dealer shall not provide a purchaser with a record of sale for more ginseng than is actually sold or otherwise exchanged.

#### PART Agr 3408 PROHIBITED CONDUCT

Agr 3408.01 Prohibited Conduct by Dealer. A dealer shall not:

- (a) Buy or otherwise acquire uncertified ginseng;
- (b) Buy, acquire, or sell ginseng without creating and maintaining an accurate record of all of the following information:
  - (1) Seller's or purchaser's name and address;
  - (2) Grower's license number, dealer's registration number, or collector's name and address and ginseng certificate number;
  - (3) Dry weight of ginseng;
  - (4) Year the ginseng was harvested or collected; and
  - (5) Date of the transaction; or
- (c) Sell or export cultivated ginseng harvested in New Hampshire without first obtaining a ginseng certificate.

Agr 3408.02 Prohibited Conduct by Person. No person shall:

- (a) Harvest, collect, or transport ginseng without documentation evidencing ownership or control of the property from which the ginseng was harvested or collected, or written authorization